IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION No. 3566 of 2007

Md Akber Ali Khan. ..Applicant.

Vs.

The State of Maharashtra ..Respondent.

Mr Ashwin Mishra, Advocate for the Applicant.

Mr V.V.Nikam, A.P.P. for the State.

CORAM: V. C. DAGA,J.

DATED: 25TH OCT, 2007.

P.C.:-

1. Heard learned counsel for the applicant and the learned APP for the State.

2. Perused application and the material available on record.

3. The applicant is seeking anticipatory bail, under Section 438 of the Cr.P.C., in C.R. No. 152 of 2007 registered with Social Service Branch Police Station, for the offence under Sections 420 read with Section 34 of the I.P.C. and under Sections 51, 52A, 63 and 68A of the Copy Rights Act.

4. The applicant has been implicated alongwith other two accused. According to the

learned A.P.P. appearing for the State, the present applicant was preparing pirated C.Ds. At the time when raid was conducted, it appears from the prosecution papers, that the present applicant ran away from the spot. It is no doubt true, as on date, he has been implicated only by the co-accused. However, that statement of the co-accused certainly can be used for the purpose of investigation. The prosecution has to discover the place of manufacture of pirated C.Ds., machinery, and the business centre of pirated C.Ds. Unless the investigation is completed, at this stage, complicity of the present applicant cannot be established. However, if the applicant is granted anticipatory bail possibility of destruction of the evidence and or pressurising of the prosecution witnesses cannot be ruled out.

5. Looking to the material available on record to connect the present applicant with the alleged offence and for the reasons recorded by the Ad-hoc Additional Sessions Judge, Mumbai in its order dated 11.10.2007 in B.A. No. 1255 of 2007 which still hold gold, this is not a fit case to enlarge the applicant on anticipatory bail.

6. In the result, the present application stands rejected.

7. Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(V.C. DAGA,J.)